

P164US2

Docket No.: 3869/35 US

COMBINED DECLARATION AND POWER OF ATTORNEY

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated below next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

METHOD AND APPARATUS FOR MONITORING BARIATRIC PARAMETERS AND SLEEP DISORDERED BREATHING

, the specification of which was filed on June 18, 2004, as United States Application Serial No. _____ or PCT International Application No. PCT/AU2004/000796, and was amended on _____ (if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under Title 35, United States Code, §119 (a)-(d) or (f), or 365 (b), of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below, and I have also identified below any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s)			Priority claimed	
(Number)	(Country)	(Day/month/year filed)	Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

<u>60/479,320</u>	<u>18 June 2003</u>
(Application No.)	(Filing Date)

_____ (Application No.)	_____ (Filing Date)
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I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

_____ (Application No.)	_____ (Filing date)	_____ (Status: patented, pending, abandoned)
----------------------------	------------------------	---

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

And I hereby appoint, jointly and severally, all of the practitioners associated with Customer Number 22440 as my attorneys and/or agents, with full power of substitution and revocation, to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith. Direct all correspondence and telephone calls to Michael I. Rackman at the address and telephone number associated with the Customer Number identified above.

19 JAN 2006

Full name of first inventor Malcolm Ronald HEBBLEWHITE

Inventor's Signature

M. R. Hebblewhite

Date

1/19/06

Residence

~~235 Market Street, #601, San Diego, CA 92101~~108 Quai Pierre Scize

Citizenship

~~United States of America~~AUSTRALIALyon 69005France

Post Office Address

~~same as above~~ c/- ResMed Ltd.1 Elizabeth Macarthur Drive, Bella Vista, New South Wales2153 AustraliaFull name of second joint inventor, Kieran GALLAHUE

Inventor's Signature

Date

Residence

4746 Shadwell Place, San Diego, CA 92130

Citizenship

United States of America

Post Office Address

same as above

Post Office Address

Full name of third joint inventor, David MULCAHY

Inventor's Signature

Date

Residence

6 Killamey Close, Castle Hill NSW 2154 Australia

Citizenship

Australia

Post Office Address

c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153
AustraliaFull name of fourth joint inventor, Hary Soesanto SURJADI

Inventor's Signature

Date

Residence

165 Somerville Road, Hornsby Heights, NSW 2077 Australia

Citizenship

Australia

Post Office Address

c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153
Australia

Full name of fifth joint inventor, Benriah GOELDI

Inventor's Signature _____ Date _____

Residence Unit 17, 15-17 Ralston Street, Lane Cove, NSW 2066 AustraliaCitizenship AustraliaPost Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153
AustraliaFull name of sixth joint inventor, Chee Keong PHUAH

Inventor's Signature _____ Date _____

Residence 78 Pacific Avenue, Penshurst, Sydney, New South Wales 2222 AustraliaCitizenship Malasia (MY)Post Office Address same as aboveFull name of seventh joint inventor, Ron RICHARDInventor's Signature  Date 1-24-06Residence 33376 Barrington Drive, Temecula, CA 92592Citizenship United States of AmericaPost Office Address 1040 Danielson Street, Poway, CA 92064-6857Full name of eighth joint inventor, Deirdre STEWART

Inventor's Signature _____ Date _____

Residence 4165 Rochester Road, San Diego, California 921116Citizenship United States of AmericaPost Office Address same as above



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**METHOD AND APPARATUS FOR MONITORING BARIATRIC PARAMETERS
AND SLEEP DISORDERED BREATHING**

, the specification of which was filed on June 18, 2004, as United States Application Serial No. _____ or PCT International Application No. PCT/AU2004/000796, and was amended on _____ (if applicable).

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Prior Foreign Application(s)

Priority claimed

(Number)	(Country)	(Day/month/year filed)	Yes	No
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(Number)	(Country)	(Day/month/year filed)	Yes	No
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<u>60/479,320</u>	<u>18 June 2003</u>
(Application No.)	(Filing Date)

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I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

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Full name of first inventor Malcolm Ronald HEBBLEWHITE

Inventor's Signature _____ Date _____

Residence 235 Market Street, #601, San Diego, CA 92101

Citizenship United States of America

Post Office Address same as above

Full name of second joint inventor, Kieran GALLAHUE

19 JAN 2006

Inventor's Signature  Date 1/2006

Residence 4746 Shadwell Place, San Diego, CA 92130

Citizenship United States of America

Post Office Address same as above

Post Office Address _____

Full name of third joint inventor, David MULCAHY

Inventor's Signature _____ Date _____

Residence 6 Killarney Close, Castle Hill NSW 2154 Australia

Citizenship Australia

Post Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153 Australia

Full name of fourth joint inventor, Hary Soesanto SURJADI

Inventor's Signature _____ Date _____

Residence 165 Somerville Road, Hornsby Heights, NSW 2077 Australia

Citizenship Australia

Post Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153 Australia

Full name of fifth joint inventor, Benriah GOELDI

Inventor's Signature _____ Date _____

Residence Unit 17, 15-17 Ralston Street, Lane Cove, NSW 2066 Australia

Citizenship Australia

Post Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153
Australia

Full name of sixth joint inventor, Chee Keong PHUAH

Inventor's Signature  Date 30 JAN 2006

Residence 78 Pacific Avenue, Penshurst, Sydney, New South Wales 2222 Australia

Citizenship ~~MALAYSIA~~
Malasia (MY)

Post Office Address same as above

Full name of seventh joint inventor, Ron RICHARD

Inventor's Signature _____ Date _____

Residence 33376 Barrington Drive, Temecula, CA 92592

Citizenship United States of America

Post Office Address 1040 Danielson Street, Poway, CA 92064-6857

Full name of eighth joint inventor, Deirdre STEWART

Inventor's Signature _____ Date _____

Residence 4165 Rochester Road, San Diego, California 921116

Citizenship United States of America

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Priority claimed

_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
(Number)	(Country)	(Day/month/year filed)	Yes	No
_____	_____	_____	<input type="checkbox"/>	<input type="checkbox"/>
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<u>60/479,320</u>	<u>18 June 2003</u>
(Application No.)	(Filing Date)

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Full name of first inventor Malcolm Ronald HEBBLEWHITE

Inventor's Signature _____ Date _____

Residence 235 Market Street, #601, San Diego, CA 92101

Citizenship United States of America

Post Office Address same as above

Full name of second joint inventor, Kieran GALLAHUE

Inventor's Signature _____ Date _____

Residence 4746 Shadwell Place, San Diego, CA 92130

Citizenship United States of America

Post Office Address same as above

Post Office Address _____

Full name of third joint inventor, David MULGAHY

Inventor's Signature  Date 20 Jan 2006

Residence 6 Killarney Close, Castle Hill NSW 2154 Australia

Citizenship Australia

Post Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153 Australia

Full name of fourth joint inventor, Hary Soesanto SURJADI

Inventor's Signature  Date 20 Jan 2006

Residence 165 Somerville Road, Hornsby Heights, NSW 2077 Australia

Citizenship Australia

Post Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153 Australia

Full name of fifth joint inventor, Benriah GOELDI

Inventor's Signature  Date 20 JAN 2006

Residence Unit 17, 15-17 Ralston Street, Lane Cove, NSW 2066 Australia

Citizenship Australia

Post Office Address c/- ResMed Ltd, 1 Elizabeth Macarthur Drive, Bella Vista, New South Wales 2153 Australia

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Priority claimed

(Number)

(Country)

(Day/month/year filed)

Yes No

(Number)

(Country)

(Day/month/year filed)

Yes No

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below:

60/479,32018 June 2003

(Application No.)

(Filing Date)

(Application No.)

(Filing Date)

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Inventor's Signature _____ Date _____

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Citizenship United States of America

Post Office Address 1040 Danielson Street, Poway, CA 92064-6857

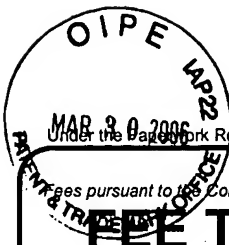
Full name of eighth joint inventor, Deirdre STEWART

Inventor's Signature  _____ Date 25/2/06

Residence 4165 Rochester Road, San Diego, California 921116

Citizenship United States of America

Post Office Address same as above



FEE TRANSMITTAL
For FY 2006

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 130.00

Complete if Known

Application Number	10/560,963
Filing Date	December 14, 2005
First Named Inventor	HEBBLEWHITE et al
Examiner Name	To be assigned
Art Unit	To be assigned
Attorney Docket No.	3869/035 US

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____

☒ Deposit Account Deposit Account Number: 07-1730 Deposit Account Name: Gottlieb Rackman & Reisman

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION (All the fees below are due upon filing or may be subject to a surcharge.)

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims **Extra Claims** **Fee (\$)** **Fee Paid (\$)**

- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
_____	_____	_____	_____	_____

_____ - 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Declaration Late filing Surcharge

Fees Paid (\$)

130.00

SUBMITTED BY

Signature Michael I. Rackman

Registration No. 20,639
(Attorney/Agent)

Telephone 212-684-3900

Name (Print/Type) Michael I. Rackman

Date March 28, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

03/31/2006 SHASSEN1 00000038 10560963

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